

Public Notice of Application for Permit

Regulatory Division (1145) CEPOA-RD Post Office Box 6898 Elmendorf AFB, Alaska 99506-0898

PUBLIC NOTICE DATE:

May 14, 2007

EXPIRATION DATE:

June 14, 2007

REFERENCE NUMBER:

POA-2006-1898-1

WATERWAY:

San Alberto Bay

Interested parties are hereby notified that a Department of the Army permit application has been received for work in waters of the United States as described below and shown on the enclosed project drawings.

APPLICANT: Mr. Don Reed, 9532 SW 52nd Avenue, Portland, Oregon 97219.

LOCATION: The proposed project is located in San Alberto Bay, on the west coast of Wadleigh Island, within the NE¼ SE¼ SW¼ Section 7, T. 73 S., R. 81 E., Copper River Meridian; U.S. Geological Survey Quadrangle Map Craig C-4; Latitude 55.5495° N., Longitude 133.1600° W.; Wadleigh Island Subdivision, Lot 7, Block C; near Craig, Alaska.

 $\underline{\text{PURPOSE}}$: The applicant's stated purpose is to provide docking and access from the water to a private property.

PROPOSED WORK: Construct a walkway, ramp, and floating boat dock below Mean High Water (MHW) of San Alberto Bay [9.2 feet relative to mean lower low water (mllw) datum 0.0 feet]. The specific project elements would include:

- A 36-foot long by 12-foot wide floating dock secured by two 12-inch diameter galvanized steel piles.
- A 145-foot long by 6-foot wide pier, supported by eighteen 10-inch square wood posts (eight posts and approximately 64 feet of this pier would be above MHW).
- A 16-foot long by 4-foot wide aluminum ramp connecting the dock and pier.

ADDITIONAL INFORMATION: The floating dock would be made of a wood and steel frame and would utilize encapsulated foam for flotation.

MITIGATION: No specific mitigation measures have been proposed by the applicant to reduce impacts to the aquatic environment. However, pile driving and other in-water work would be subject to timing restrictions for the protection of fish and other aquatic species.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Office of Project Management and Permitting, Department of Natural Resources has concurred with the applicant's certification.

CULTURAL RESOURCES: During a preliminary evaluation of the proposed action, the latest published version of the Alaska Heritage Resources Survey (AHRS) was consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. An unevaluated property, designated CRG-330, was identified in the vicinity of the worksite. A survey was undertaken and the property was determined to be outside of the project area. A determination of no effect has been made, and consultation with the State Historic Preservation Officer (SHPO) is ongoing. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time. This application is being coordinated with SHPO. Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

ENDANGERED SPECIES: The project area is within the known or historic range of the Steller sea lion (Eumetopias jubatus) (eastern stock) and the endangered humpback whale (Megaptera novaeangliae). The proposed action would not result in modification of any designated or proposed critical habitat. There are no Steller sea lion rookeries or haul out areas near the project site, and critical habitat is not designated for the humpback whale.

Sound pressure that would result from driving steel piles has the potential to affect humpback whales and Steller sea lions should they occur in proximity to the project area when pile driving is occurring. Pile driving work, however, would be of limited duration. All but two of the piles would be wooden; driving wooden piles using an impact hammer produces a much lower sound pressure level with a lower potential risk to these and other aquatic species. Therefore adverse effects to Steller sea lions and humpback whales would be very unlikely to occur. Preliminarily, we have determined that the described activity would not likely adversely affect either of these threatened or endangered species. Further, the activity would not modify any designated critical habitat. In accordance with Section 7 of the Endangered Species Act of 1973 (87 Stat. 844), this application is being coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (NMFS). Any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The proposed work is being evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA), 16 U.S.C. et seq and associated federal regulations found at 50 CFR 600 Subpart K. EFH, including Habitat Areas of Particular Concern (HAPC), in the Alaska District are described for species managed under a federal Fishery Management Plans. We have reviewed the National Marine Fisheries Service (NMFS) and North Pacific Fishery Management Council's Final Environmental Impact Statement for Essential Fish Habitat Identification and Conservation in Alaska (April 2005) to locate and identify EFH in the vicinity of the proposed action. We have also reviewed the NMFS Environmental Assessment/ Regulatory Impact Review/Regulatory Flexibility Analysis for Amendments 65/65/12/7/8 to the Bering Sea Aleutian Islands Groundfish Fishery Management Plan (#65), Gulf of Alaska Groundfish Fishery Management Plan (#65), Bering Sea Aleutian Islands Crab Fishery Management Plan (#12), Scallop Fishery Management Plan (#7), and the Salmon Fishery Management Plan (#8) and Regulatory Amendments to Provide Habitat Areas of Particular Concern (April 2005) to locate and identify HAPC in the vicinity of the proposed action.

The project is not located in any HAPC. Tongass Narrows, in the vicinity of the proposed project, is identified as EFH for a number of species of groundfish and salmon. We have determined that the proposed activity would affect approximately 0.02 acre of EFH for juvenile and adult salmon and groundfish during construction and as a result of shade created by the proposed structure. The project may also adversely affect associated species such as major prey or predator species which are not covered by Fishery Management Plans. Overall, there would be no permanent loss of EFH, and the construction impacts would be temporary and minimal in nature. Consequently, the project would not adversely affect EFH.

This Public Notice initiates consultation requirements with the NMFS under the MSFCMA. We have insufficient information at this time to assess the cumulative effects of the proposed work on EFH, but cumulative effects will be considered in our final assessment of the described work. Any conservation recommendations regarding EFH for federally managed fish will also be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between Federally recognized Tribes and the Federal government. Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This Public Notice serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Commander during the public comment period.

<u>PUBLIC HEARING</u>: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The outcome of the general balancing process would determine whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur. The decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Commander determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

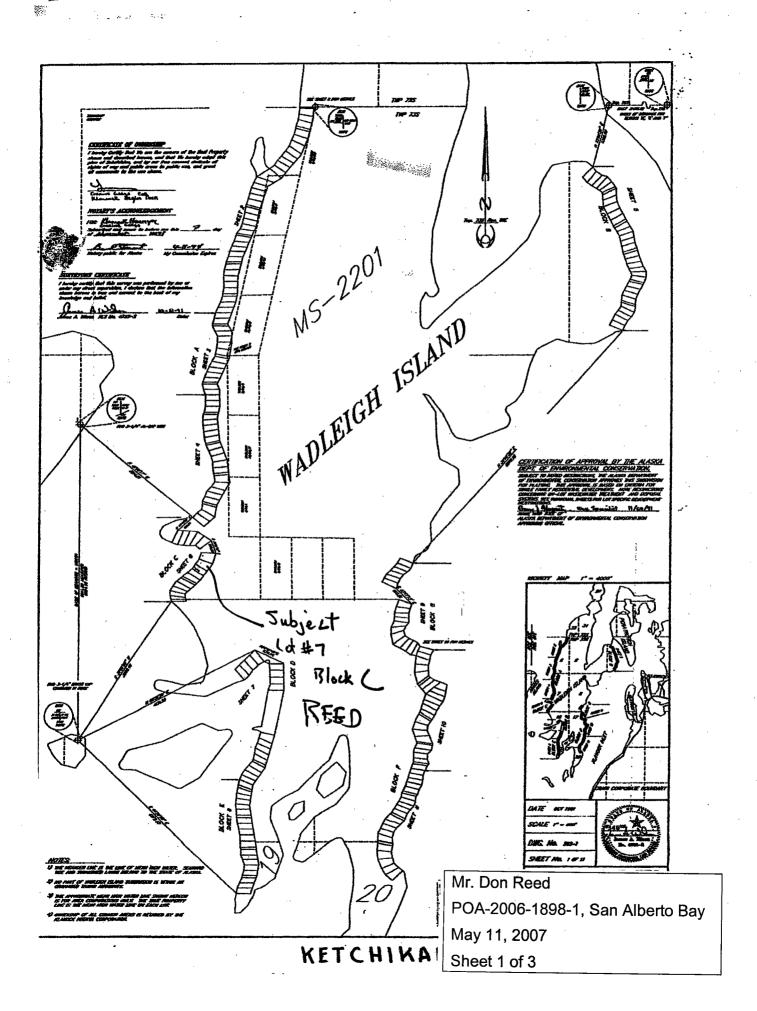
Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Ms. Robin Leighty at (907) 753-2712, toll free from within Alaska at (800) 478-2712, or by email at robin.l.leighty@poa02.usace.army.mil if further information is desired concerning this notice.

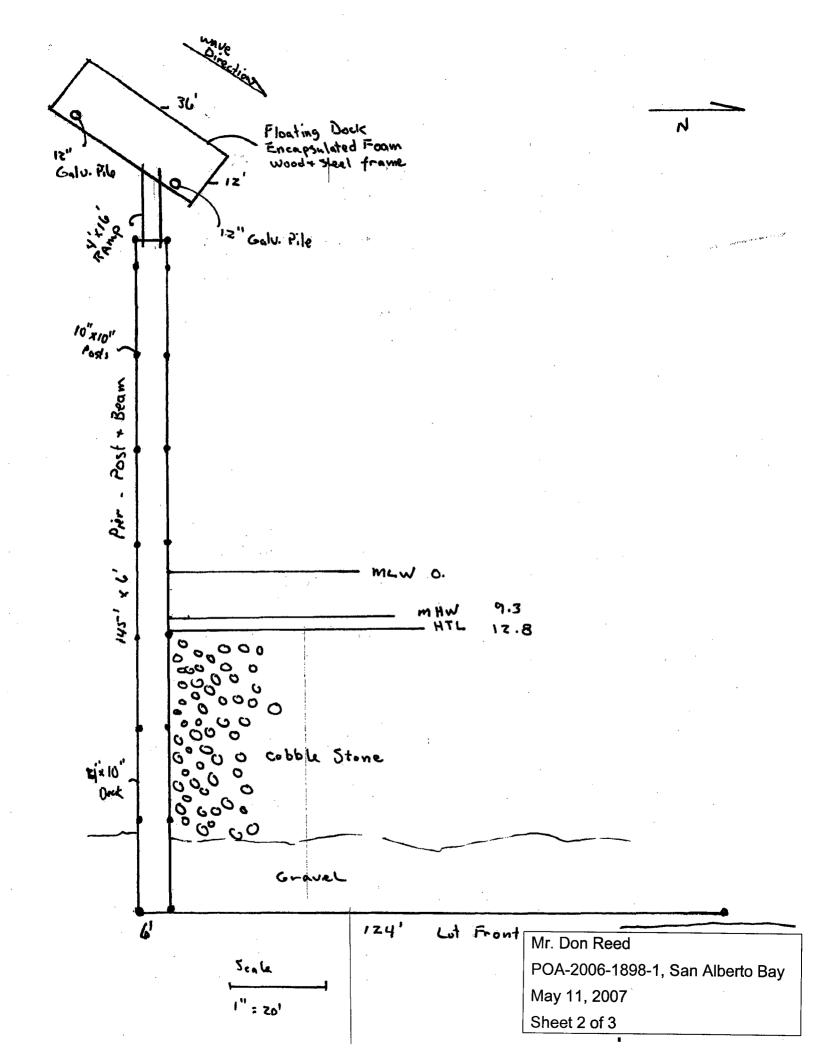
<u>AUTHORITY</u>: This permit will be issued or denied under the following authorities: (X) Perform work in or affecting navigable waters of the United States - Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

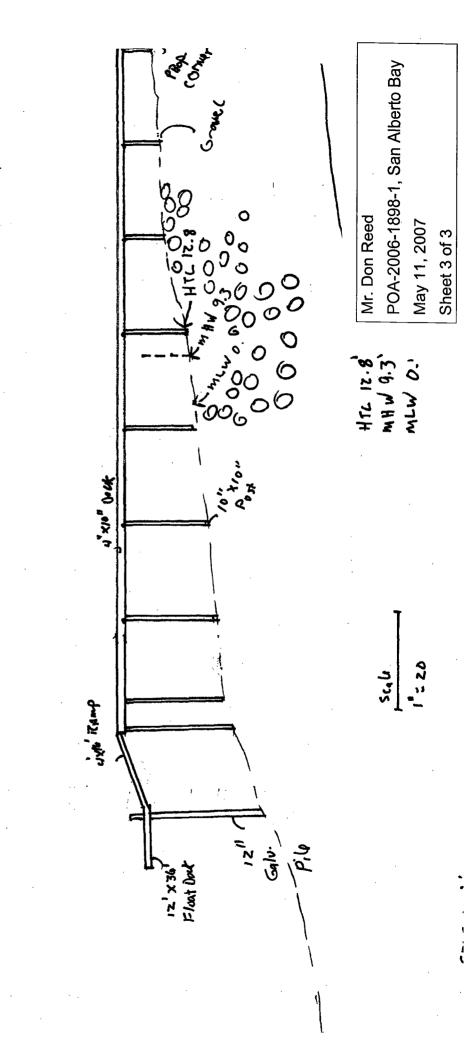
Project drawings and a Notice of Application for Certification of Consistency with the Alaska Coastal Management Program are enclosed with this Public Notice.

District Commander U.S. Army, Corps of Engineers

Enclosures







STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF PROJECT MANAGEMENT AND PERMITTING

OFFICE OF PROJECT MANAGEMENT AND PERMITTING POST OFFICE BOX 111030, MS 1030 JUNEAU, ALASKA 99801-1030 PHONE: (907) 465-3562/FAX: (907) 465-3075

NOTICE OF APPLICATION FOR CERTIFICATION OF CONSISTENCY WITH THE ALASKA COASTAL MANAGEMENT PROGRAM

Notice is hereby given that a request is being filed with the Office of Project Management and Permitting for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Public Notice No. **POA-2006-1898-1, San Alberto Bay**, will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

This project is being reviewed for consistency with the Alaska Coastal Management Program. Written comments about the consistency of the project with the applicable ACMP statewide standards and district policies must be submitted to the Office of Project Management and Permitting (OPMP). For information about this consistency review, contact OPMP at the address or phone number above, or visit the ACMP web site at http://www.alaskacoast.state.ak.us//Projects/projects.html.